REMARKS

The applicants have carefully considered the Office action dated March 22, 2007, and the references it cites. In the Office action, claims 1-8 and 11-35 were rejected as unpatentable over various combinations of Scott (US Pub. No. 2002/0049760), Vigue et al. (US 6,983,326), Fanning (US 6,742,023), and Schleicher (US Pub. No. 2002/0138744), claim 36 was indicated to be allowable, and claims 37-44 were withdrawn from consideration by the examiner. In light of the forgoing amendments and the following remarks, the applicants submit that all pending claims are allowable and reconsideration is respectfully requested.

As an initial matter, applicants note that claim 36 stands allowed and is not further discussed herein.

Claim 1 recites a method comprising, among other things, comparing a connection speed of at least one server to an available network access bandwidth of the client and selecting one of a plurality of downloading systems based on the comparison. To better understand this claim, consider the following example. Where a client is connected to several servers via the internet, the client may have a connection speed that supports, for example, a 3 Mbps download connection from the internet, but each of the servers may only support an upload speed of, for example, 1 Mbps to the internet. Accordingly, by comparing the 3 Mbps bandwidth of the client to the 1 Mbps upload capability of one of the servers, the download system/technique (e.g., multiple concurrent download, serial concatenated download, or multiple concatenated download) may be selected based on the comparison. None of the art of record teaches or suggests such a method.

The Office action relies on Scott for describing a method comprising comparing a connection speed of at least one server to an available network access bandwidth of a client. However, while Scott is directed to a technique for accessing information in a peer-to-peer network, Scott does not describe or suggest comparing a connection speed of at least one of the servers to an available network access bandwidth of the client. Scott compares a connection speed from one peer location to a connection speed from another peer location. Scott does not compare the connection speed of a peer location with the network access bandwidth of the client that initiated the broadcast search. In other words, Scott does not compare the sending speed from one peer location or server to the client's connection speed to the network of computers available to the client. Therefore, Scott does not teach or suggest all of the recitations of claim 1.

Vigue does not overcome the deficiencies of Scott, nor does the Office action allege that Vigue does overcome such deficiencies. For example, Vigue does not describe or suggest comparing a connection speed of at least one of the servers to an available network access bandwidth of the client.

Fanning also fails to overcome the above deficiencies. For example, while Fanning describes a method including connecting to two download servers to request a file allowing a high-bandwidth file transfer client to download files from several lower bandwidth servers. (Col. 8, lines 7-20), Fanning does not describe or suggest comparing a connection speed of at least one of the servers to an available bandwidth of the client to select a download system as recited in claim 1.

Schleicher also fails to overcome the deficiencies of Scott. While Schleicher describes a method including determining from a list of client nodes, the node closest to a client requesting a file download, Schleicher does not describe or suggest comparing a connection speed of at least one of the servers to an available network access bandwidth of the client.

Accordingly, because none of Scott, Vigue, Fanning, or Schleicher describes or suggests a method including comparing a connection speed of at least one of the servers to an available network access bandwidth of the client, no combination of Scott, Vigue, Fanning, or Schleicher can describe or suggest such a method. Therefore, for at least the foregoing reasons, claim 1 and all claims depending therefrom are patentable over Scott, Vigue, Fanning, and Schleicher.

Claim 15 recites, *inter alia*, a method comprising comparing the connection speed of at least one server to an available network access bandwidth of the client. As discussed above, no combination of Scott, Vigue, Fanning, or Schleicher describes or suggests such a method. Therefore, claim 15 and all claims depending therefrom are patentable over Scott, Vigue, Fanning, and Schleicher.

Claim 25 recites, *inter alia*, a method comprising comparing the connection speed to at least one peer server to an available network access bandwidth to the first peer. As discussed above, no combination of Scott, Vigue, Fanning, or Schleicher describes or suggests such a method. Therefore, claim 25 and all claims depending therefrom are patentable over Scott, Vigue, Fanning, and Schleicher.

In view of the forgoing, the applicants respectfully submit that the application is in condition for allowance. If there are any remaining matters that the examiner would like to

discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,

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